

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

FREDRICK DEWAYNE HINES,

Case No. 18-CV-3004-DWF-KMM

Plaintiff,

v.

GOV MIKE DAYTON,
COMMISSIONER THOMAS ROY,
ATTORNEY GENERAL LORI
SWANSON,
MICHELLE SMITH,
DAVID REHISUS,
SHERLINDA WHEELER,
STEPHAN CRANNA,
BARB MANOR,
JAMIE PETERSON,
ELAINE CROWE,
COLEEN LOUCKS,
CARLA THOMPSON,
BRENDA SMITH,
TRUMAN CLATE,
CHONG LOR,
KATHY REID,
DANA HILL,
KATHERINE UHL,
JANE DOE ("Skinny Minny" RN),
JOHN DOE (RN),
NANETTE LARSON,
SGT GLEN LISOWY,
SGT. SHAWN HERRINGTON,
SGT. JEFFREY GUTZMER,
JOSEPH PRIASE,
SGT. MATTHEW JOHNSON,
SGT. LON HOVAK,
BRANDON HUYNH,
CRAIG THACKER,

**REPORT AND
RECOMMENDATION**

Defendants.

In an order dated September 23, 2019, this Court granted Plaintiff Frederick Dewayne Hines leave to file an amended complaint, in part because the Court had previously noted the complaint had deficiencies and potentially failed to state a claim. *See* [ECF Nos. 5, 16]. Mr. Hines was given until October 23, 2019 to file the amended complaint, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. [ECF No. 16]; *see* Fed. R. Civ. P. 41(b). The Order was returned as undeliverable one time, so the Court re-sent the order to a new address for Mr. Hines and the mail did not get returned. The mail was re-sent on October 1, 2019, so the court allowed 30 days from that date to give Mr. Hines time to respond.

That deadline has now passed, and Mr. Hines has not filed an amended complaint. In fact, Mr. Hines has not communicated with the Court about this case at all since requesting leave to amend his complaint. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Date: December 10, 2019

s/Katherine Menendez

Katherine Menendez

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).